UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA))
V.) Case No. 16-cr-10137-LTS
KENNETH BRISSETTE and TIMOTHY SULLIVAN)
)

DEFENDANTS' MOTION IN LIMINE TO EXCLUDE TESTIMONY CONCERNING THE "LEGALITY" OF CONDITIONING CITY ACTION ON THE USE OF UNION LABOR

Pursuant to Federal Rules of Evidence 401, 403, and 701, defendants Kenneth Brissette ("Brissette") and Timothy Sullivan ("Sullivan") move this Court *in limine* to preclude the government from offering evidence of any lay witness's opinion as to the supposed legality (or illegality) of conditioning City action on the use of union labor.

As set forth in the accompanying Memorandum in Support, testimony regarding the City of Boston's right to require or mandate union labor amounts to inadmissible lay witness opinion testimony. Furthermore, this testimony is unfairly prejudicial because it creates confusion among the jurors about the standard of law that is applicable to this case, and runs the unacceptable risk that the jury will infer from the testimony that the defendants must have committed a crime. Finally, to the extent the witnesses opine on whether it is "legal" to require union labor as condition for use of City Hall Plaza, such testimony should be excluded because it is incorrect as a matter of law.

REQUEST FOR ORAL ARGUMENT

The defendants request that the Court schedule a hearing on this Motion.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel hereby certifies that the parties have conferred in an effort to narrow the issue raised by this motion.

Respectfully submitted,

KENNETH BRISSETTE,

By his attorneys,

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/s/ Sara E. Silva

/s/ Courtney Caruso

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Dated: March 19, 2018

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on March 19, 2018.

/s/ William H. Kettlewell